

AGENDA REQUEST
BUSINESS OF THE PLANNING AND ZONING COMMISSION
CITY OF SUGAR LAND, TEXAS

AGENDA OF: 02/08/05 DEPT OF ORIGIN: DEVELOPMENT SVCS. REQ. NO. V A
DATE SUBMITTED: 02/03/05

ORIGINATORS: SABINE A. SOMERS-KUENZEL, AICP, CITY PLANNER
DOUGLAS P. SCHOMBURG, AICP, ASST. CITY PLANNER *D.P.S.*

SUBJECT: CONDITIONAL USE PERMIT IN THE MIXED USE CONSERVATION (MUC) DISTRICT TO CONSTRUCT A PRIMARY STRUCTURE AND ACCESSORY STRUCTURE AT 410 BROOKS STREET (SECOND REQUEST)

PROCEEDING: CONSIDERATION AND ACTION

EXHIBITS: VICINITY MAP; DRAFT CUP ORDINANCE WITH PROPOSED EXHIBITS AND LEGAL DESCRIPTION; SECOND APPLICATION; CORRESPONDENCE FROM APPLICANT; FIRST CUP MATERIALS

APPROVED FOR SUBMITTAL:

SABINE A. SOMERS-KUENZEL, AICP, CITY PLANNER *AOK*

EXECUTIVE SUMMARY:

Mr. and Ms. Randall and Diana Miller are seeking to construct a primary structure and accessory office / garage at 410 Brooks Street. This property was the subject of a Conditional Use Permit (CUP) recommended for denial by the Planning and Zoning Commission in November of 2004. The applicant subsequently submitted this second CUP request of a scale in closer alignment with the Mixed Use Conservation (MUC) District. The property, located on the west side of Brooks Street to the south of Guenther Street within the MUC District, requires a Conditional Use Permit (CUP) for the construction of any new building or building addition under Chapter 2, Article II, Section 2-166b of the Development Code. The applicants have submitted a plot plan sketch that has footprints similar to the first request. However, the building elevation drawings for the proposed reconstruction have changed. The project would require the removal of the existing residence and garage currently located on the property. The applicants propose to use the new

buildings as a real estate office, classified as SIC Code No. 6531 (Real Estate), which is a permitted uses by right in the MUC District. The applicants also propose to use the accessory building as a one vehicle garage and office. However, the proposed primary structure will have the ability to serve as a residential structure as well as commercial in the future as a use by right.

PUBLIC HEARING:

Second Request:

A Public Hearing was held on January 27, 2005 at the Commission meeting with regard to this CUP. In addition to the applicants who spoke, there were two other members of the public who provided comments. Neither individual was opposed to the request, although caution was urged by one speaker with regard to any approval by the Commission. The second speaker was in support of the request but expressed disappointment in the reduced scale of the buildings.

First Request:

A Public Hearing was held on October 12, 2004 at the Planning and Zoning Commission Meeting with regard to the previous CUP case applying to this property.

GENERAL SITE INFORMATION:

The following is a summary of general site information.

Future Land Use Plan / Ch. 6 Comprehensive Plan	MUC District was discussed as to any recommended changes from the Commission or Council during the 2003-2004 process. No changes were directed to the existing MUC requirements.
Adjacent Zoning	North: Mixed Use Conservation (MUC) South: Mixed Use Conservation (MUC) East: Restricted Single Family Residential (R-1R) West: Mixed Use Conservation (MUC) Site: Mixed Use Conservation (MUC)
Adjacent Land Use	North: Residential South: Beauty Shop (Records on File with Dev. Services) East: Residential West: Vacant and Personal Care Facility to N.W. Site: Residential
Building Materials	The exterior of the house and garage are proposed to be Hardi-Plank siding.

DEVELOPMENT CODE PROVISIONS FOR CONDITIONAL USE PERMITS:

Section 2-22. Standard of Review

In reviewing the application, the Commission and Council will consider the impact the proposed buildings will have on surrounding premises and the community, including traffic, noise, and property values; any conditions or restrictions that could mitigate any adverse impact; and other matters that are relevant to a determination of whether the buildings would be a compatible and appropriate.

Section 2-23. Conditions

The Commission may recommend, and the Council may impose, reasonable conditions and restrictions in the granting of a permit to mitigate any adverse impacts of the proposed buildings. The conditions must be specific in the ordinance approving the permit.

ANALYSIS:

The Mixed Use Conservation (MUC) District is intended to preserve the local heritage by protecting the visual character of the existing residential and non-residential uses within the district. The intent is also to promote development or redevelopment that is substantially consistent and compatible with the character and physical appearance of the existing mixed-use neighborhood. To ensure compatibility with the existing character of the district, a conditional use permit is required for the construction of any new building in the district. The District was created in 1997 and originally required a CUP for any of the commercial uses listed in MUC category in the Development Code. In 1999, the district regulations were amended with the provision as stated above, requiring a CUP for the construction of a new building rather than for any land uses.

Since the 1999 amendments, there has been one Conditional Use Permit granted for a new primary building in 2001. The residence at 318 Brooks was granted a total of 1905 square feet but was built with 1815 square feet. In late 2004, the Planning and Zoning Commission and City Council approved a new residential garage at 302 Brooks Street with 440 square feet.

Background Information on CUP Request:

The COSL Planning Division received contact during the summer of 2004 by the applicants regarding a proposal to demolish the existing structures and construct new buildings at 410 Brooks Street. The Development Services Director requested that staff examine MUC District records and conduct field investigation regarding buildings in the district in order to advise the potential applicant regarding their proposal. Based on information gathered, the Planning Division communicated our opinion that the construction that was proposed at the time lacked compatibility with the MUC District, which primarily consists of brick or siding clad single-story structures. A CUP request

was submitted on August 23, 2004 and was denied by the Commission on November 9, 2004.

Land Use Plan:

Currently, the intent of the district is to protect the existing visual character, promoting proposals that are consistent with the existing character of the rest of the district. The emphasis is on preservation of character. During review of the Land Use Plan, we requested public input and Commission direction for the MUC area. During that time, we questioned whether there was an interest to either a) become more flexible with the commercial uses, or b) to strengthen the ordinance language to become more restrictive. Most of the public input gathered during the three public input periods indicated a preference to retain the ordinance as is. The Commission directed a thorough review of the history of the district and requested that a summary be added to the draft text so that there would be broad understanding of the intent of the district. The Commission also discussed a reluctance to revisit the ordinance provisions and has recommended no change to the regulations affecting the MUC. The Land Use Plan was formally adopted by the City Council on November 16, 2004.

New Submittal:

A second CUP request for the property at 410 Brooks was received on December 20, 2004. The key areas of difference in the second request from the first are as follows:

- The total square footage of the primary structure is approximately 1,800 and the structure is single-story. The applicant has stated that the footprint is the same as the first request, with the deletion of the second story. By comparison, the first submittal was 3343 square feet.

Since the time of the first submittal, the Planning staff has further studied the existing structures in the area. Average house size in the MUC are a little less than 1300 square feet with the largest home of 2392 sf on Venice north of Guenther. The City has approved one home of 1905 sf since the time we began requiring CUP's for new structures.

- The accessory building (garage / office / storage) is a single story structure totaling approximately 730 square feet. The footprint is similar to the previous submittal with 504 square feet for the office area and approximately 226 square feet for the garage. The garage portion is for one vehicle, whereas the first submittal was for a two story three vehicle garage that would have contained 1234 square feet.

Garage sizes in the MUC vary at the high and low extremes – adjusting for two of

the largest and four of the smallest, the remaining garages average about 460 sf with a maximum of 720 sf. The City has approved one garage of 440 sf.

To recap the requirements of the Development Code with regard to the Mixed Use Conservation District in Chapter 2, Article II, Section 2-165:

- a) *Sustain and enhance the economic viability of the older, existing predominantly residential neighborhoods while permitting a reasonable amount of restricted Nonresidential Use;*
- b) *Promote development or redevelopment that is substantially consistent and compatible with the character and physical appearance of the existing mixed use neighborhoods; and*
- c) *Prevent encroachment of incompatible, new development that would disturb the heritage and local historic significance of the District.*

The ordinance gives the Commission and ultimately City Council the authority to make the determination that a request is in conformity with the character of the area.

The scale and scope of this second request is in alignment with the neighborhood in a much closer way than the first submittal. Although the height of the buildings can be up to 27', the square footage of each has been reduced by approximately half, and the character of the building elevations appears to be compatible with the Mixed Use Conservation (MUC) District.

Commission Meeting of January 27, 2005:

Following the Public Hearing, the Commission discussion focused on what attachments and exhibits might be included in the CUP ordinance for the case, including elevation drawings and references to the building finish materials to be used on the exterior of the two buildings. The Commission also asked the applicant to clarify whether the proposed porch would be concrete or wood construction, and was the square footage included in the overall count. Staff confirmed that the overall square footage was for climate controlled areas of the buildings and the applicant indicated that the specific materials for the deck of the porch had not been finalized at the present time. Staff agreed to provide the Commission with a formal elevation drawing in addition to the colored rendering shown at the meeting and in the Commission packet.

Additional discussion was raised by the Commission as to requesting whether that the Mixed Use Conservation (MUC) District could be further examined by Commission / Council as a whole relating to the subject of preservation. Staff agreed that an item could be placed on a future Commission agenda for discussion, with the need to be independent of the CUP case being reviewed.

RECOMMENDED ACTION:

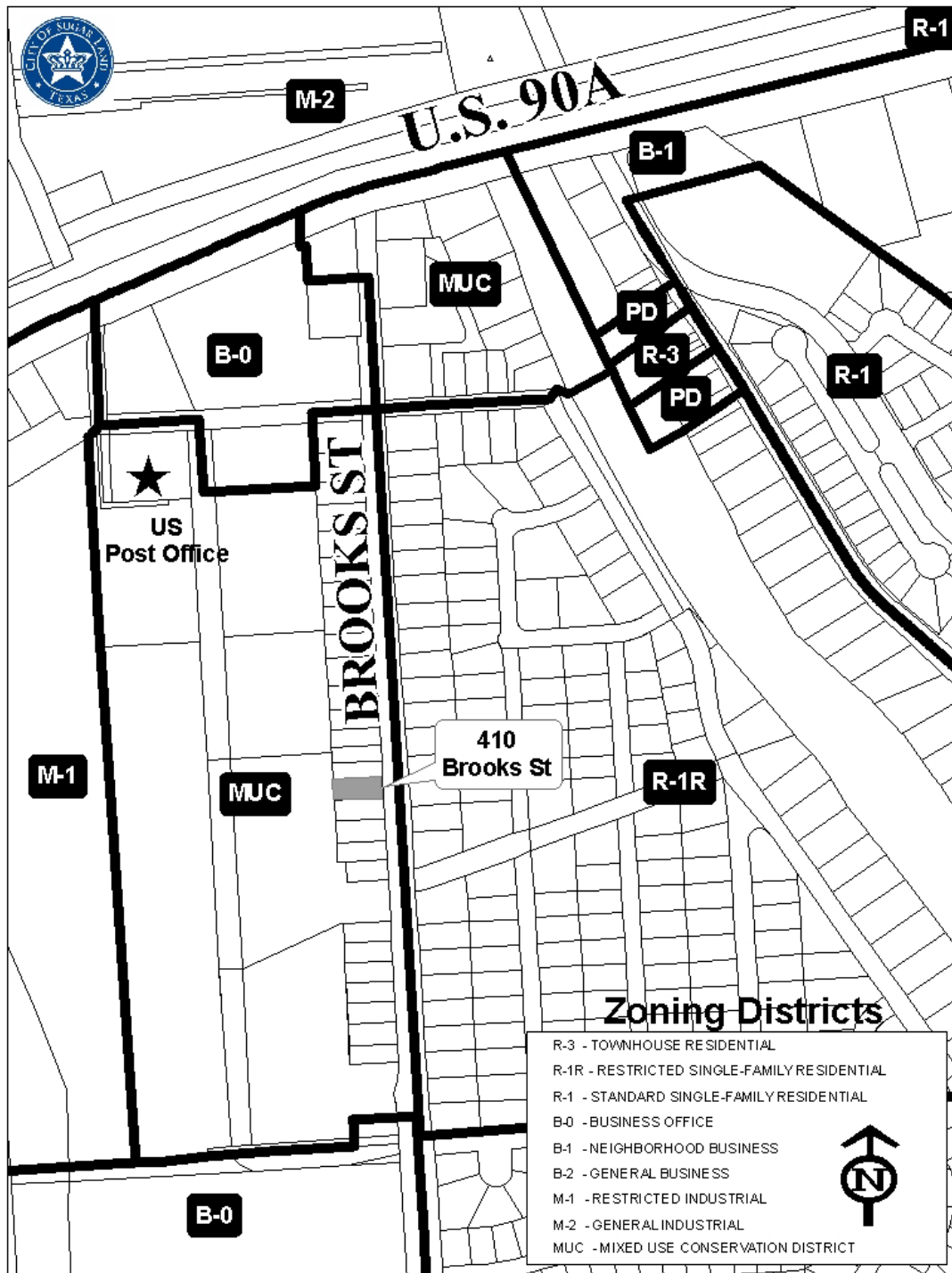
The Development Services Department recommends that the Planning and Zoning Commission recommend approval of this second CUP request for both the primary structure and the garage.

CC: Randall and Diana Miller

dmiller@realtor.com

File No. P0003099

Vicinity Map:



DRAFT CUP ORDINANCE:

ORDINANCE NO. ***

**AN ORDINANCE OF THE CITY OF SUGAR LAND, TEXAS, GRANTING A
CONDITIONAL USE PERMIT TO BUILD A COMMERCIAL STRUCTURE AT
410 BROOKS STREET, LOCATED IN THE MUC DISTRICT.**

WHEREAS, Randall and Diana Miller have applied for a conditional use permit to build a commercial structure in the Mixed Use Conservation (MUC) zoning district for the real property located at 410 Brooks Street; and

WHEREAS, the Planning and Zoning Commission recommends the permit be approved (denied); NOW, THEREFORE;

**BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF SUGAR LAND, TEXAS:**

Section 1. That a conditional use permit to build a commercial structure is granted for the property as described in Exhibit A, attached to and incorporated into this ordinance by reference.

Section 2. That the premises shall be developed, operated, and maintained in accordance with the ordinances of the City of Sugar Land and in accordance with the site plan (dated 12-20-04) shown in Exhibit B, the site layout (dated 12-20-04) shown in Exhibit C, and the building elevations (dated 12-20-04) shown in Exhibit D, attached to and incorporated into this ordinance by reference. If there is a conflict between a provision of this ordinance and a provision of the Code of Ordinances or the Sugar Land Development Code, the more stringent provision controls.

Section 3. That any person found guilty of violating this ordinance shall be fined not more than \$2,000 for each offense.

APPROVED on first consideration on _____, 2005.

ADOPTED upon second consideration on _____, 2005.

David G. Wallace, Mayor

ATTEST:

Glenda Gundermann, City Secretary

LEGAL DEPARTMENT APPROVAL:

Attachments: Exhibit A – Metes and Bounds
Exhibit B - Site Plan
Exhibit C – Site Layout
Exhibit D – Building Elevations

Legal Description: 410 Brooks Street (0.207 Acres)

G. F. No. 2623000157

410 Brooks

Exhibit A

0.207 ACRES OF LAND OUT OF BELKNAP REALTY COMPANY'S 377.7 ACRE TOWNSITE TRACT AS SHOWN BY DEED RECORDED IN VOLUME 140, PAGE 190 OF THE DEED RECORDS OF FORT BEND COUNTY, TEXAS, AND BEING OUT OF THE S. M. WILLIAMS LEAGUE, ABSTRACT NUMBER 97, IN SUGAR LAND, TEXAS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF GUENTHER STREET WITH THE WEST LINE OF BROOKS STREET IN THE TOWN OF SUGAR LAND, TEXAS, WHICH POINT IS SOUTH 80 DEGREES 56 MINUTES WEST, 70.7 FEET FROM THE NORTHWEST CORNER OF BELKNAP SUBDIVISION, SECTION NUMBER 1, AS RECORDED IN VOLUME 248, PAGE 101 OF THE DEED RECORDS OF FORT BEND COUNTY, TEXAS;

THENCE, SOUTH 00 DEGREES 56 MINUTES EAST, 1045.0 FEET TO AN "X" SET AT THE NORTHEAST CORNER OF THIS TRACT IN THE WEST RIGHT-OF-WAY LINE OF BROOKS STREET FOR THE PLACE OF BEGINNING;

THENCE, SOUTH 00 DEGREES 56 MINUTES EAST, 50.0 FEET WITH THE WEST RIGHT-OF-WAY LINE OF BROOKS STREET TO A FOUND 1/2 INCH IRON PIPE SET FOR THE SOUTHEAST CORNER OF THIS TRACT;

THENCE, SOUTH 89 DEGREES 04 MINUTES WEST, ALONG THE MOST NORTHERLY LINE OF THE SANDERS TRACT, AS DESCRIBED BY VOLUME 2673, PAGE 1762 OF FORT BEND COUNTY DEED RECORDS, 150.00 FEET TO A 1/2 INCH IRON ROD SET FOR THE SOUTHWEST CORNER OF THIS TRACT;

THENCE, NORTH 00 DEGREES 56 MINUTES WEST, ALONG THE MOST EASTERLY LINE OF THE SUGAR LAND BIBLE CHURCH TRACT, AS DESCRIBED BY VOLUME 1824, PAGE 978 OF FORT BEND COUNTY DEED RECORDS, 60.00 FEET TO A 1/2 INCH IRON ROD SET FOR THE NORTHWEST CORNER OF THIS TRACT;

THENCE, NORTH 89 DEGREES 04 MINUTES EAST, ALONG THE MOST SOUTHERLY LINE OF THE CARLETON TRACT, AS DESCRIBED BY VOLUME 448, PAGE 336 OF FORT BEND COUNTY DEED RECORDS, 150.00 FEET TO THE PLACE OF BEGINNING AND CONTAINING 0.207 ACRES OF LAND OUT OF THE S. M. WILLIAMS LEAGUE, ABSTRACT NUMBER 97, FORT BEND COUNTY, TEXAS, AND INCLUDING BELKNAP REALTY COMPANY'S HOUSE NUMBER 410 SITUATED THEREON.

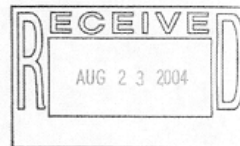


EXHIBIT A

CUP Plot Plan Sketch Drawing:
410 Brooks Street (MUC) District
Date: (December 20, 2004)

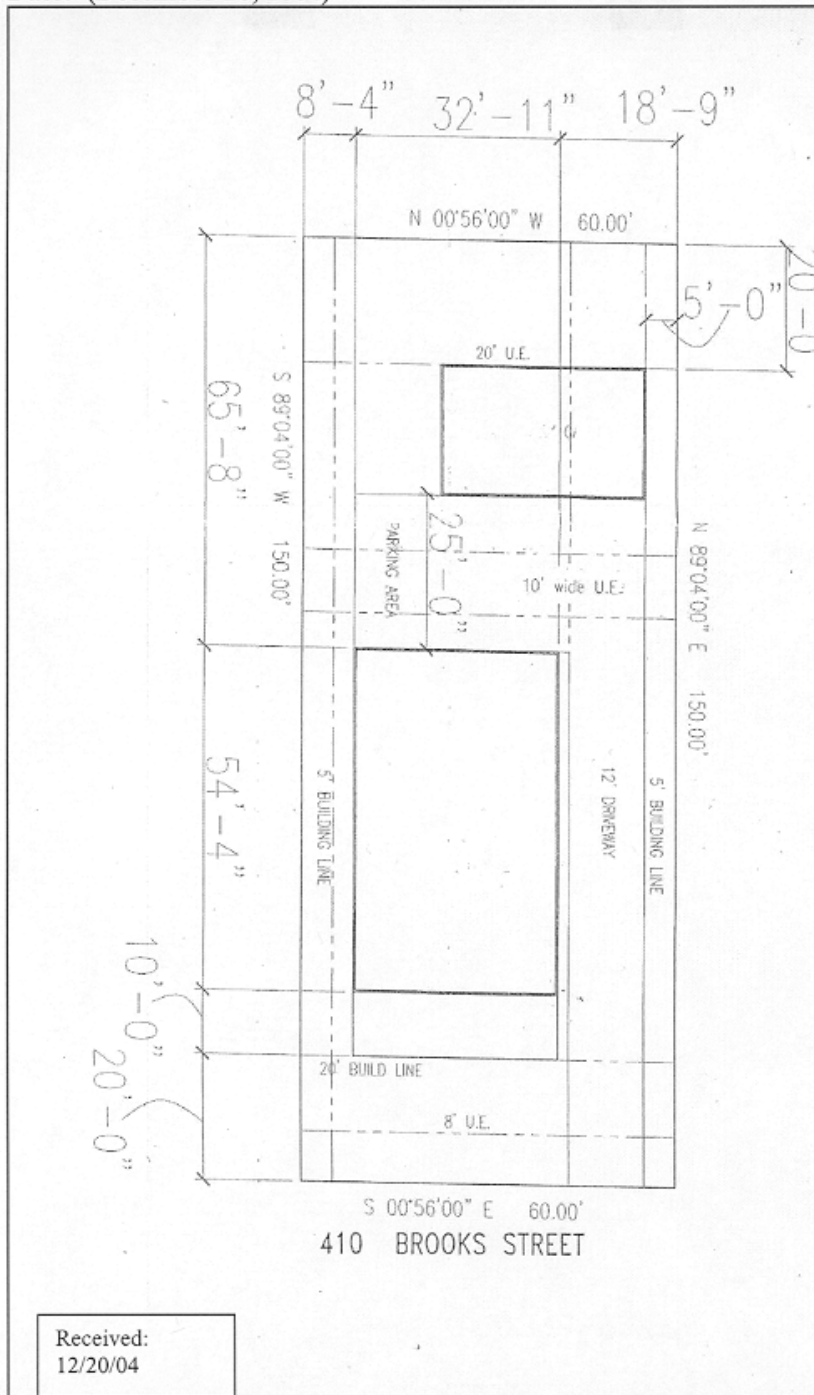


EXHIBIT B

CUP Site Layout Drawing:
410 Brooks Street (MUC) District
Date: (December 20, 2004)

410 Brooks

FILE COPY

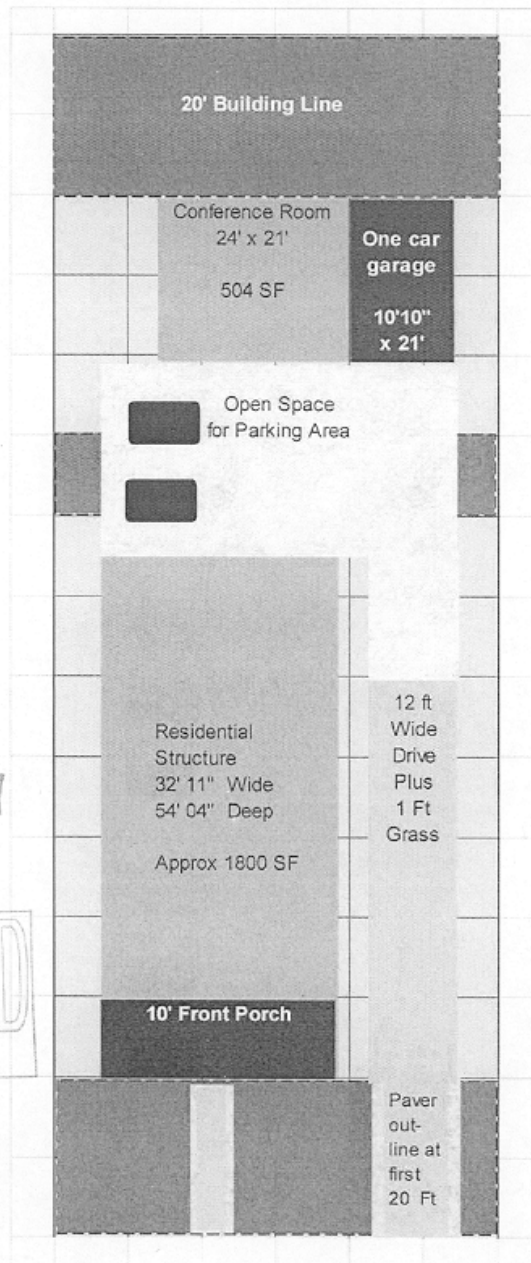
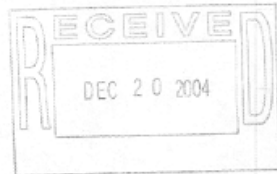


EXHIBIT C

BUILDING ELEVATION DRAWINGS: Revised CUP Request for 410 Brooks St.

Primary Structure (Front View)



- **Approx. 1,800 sq. ft.**
- **Hardi-plank siding exterior on all sides**

Accessory Structure (Front View)



Submitted: 12/20/04

- **Hardi-plank siding exterior on all sides**
- **One-car garage with attached office of approx. 504 square ft.**

Detailed Drawings received 12/20/04 and 2/1/05

EXHIBIT D

Second CUP Application:

Revised
CUP

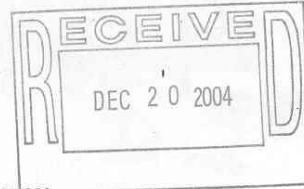


CITY OF SUGAR LAND

CURRENT PLANNING DIVISION

CONDITIONAL USE PERMIT OR REZONING APPLICATION

Please type or print the following information



FILE COPY

Applicant

Contact

Diana Miller, Randall Miller

Address 410 Brooks Street

Phone 713-724-3113 Fax 281-980-7640

Email dmiller@realtor.com

Owner

Contact

Randall Miller

Address 3107 Royal Lytham Ct Sugarland, TX 77479

Phone 281-980-2491 Fax 281-980-7640

Email _____

Property Legal Description _____ See Attached ☒

Lot _____ Block _____ Subdivision _____

Current Zoning District MUC Proposed Zoning District, if applicable _____

If this is a CUP application: ☒ new building ☐ existing building

Proposed Use (CUP only) ~~Residential and Real Estate Co~~
office - Business owners to occupy the residence

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the undersigned is authorized to make this application. This application expires six months from the date stamped as received by the Planning Department if no action has been taken by the Planning and Zoning Commission on this request.

X [Signature]
Signature of Applicant

8/16/04
Date

Submittal Requirements (Submittal Deadline is Monday at 3:00 p.m.): Resubmitted 12/20/04

- ☐ Three (3) copies of the completed application
- ☐ Check for \$400 (non-refundable)
- ☐ Metes and bounds of the site and county slide number of plat, if recorded
- ☐ Two (2) 24" x 36" blue-line copies and two (2) 11" x 17" copies of the CUP layout plan or the property to be rezoned, including a vicinity map and north arrow on each copy
- ☐ Two (2) copies of a letter stating the applicant's request and addressing issues relating to a CUP including traffic circulation, parking, plan of operation, and other pertinent information
- ☐ Names and mailing addresses of all property owners and tenants within 200 feet of site, including owner and applicant

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

S:\Public\DRG\ADMIN\APPLICATIONS\Current CUP & Rezoning Application 2001

Correspondence from Applicant: (December 20, 2004)



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From the Office of:

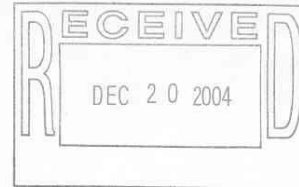
Diana Miller,
Owner/Broker
dmiller@realtor.com
713-724-3113 cell

19901 SW Freeway
Sugar Land, Tx 77479
281-980-3390 Office
281-980-7640 Fax

December 20, 2004

City of Sugar Land
Planning Division
P.O. Box 110
Sugar Land, Texas 77478

RE: **Revised** New Construction Request
410 Brooks Street
MUC District



FILE COPY

Enclosed are materials related to our request for a new residential structure to be built at 410 Brooks Street. A demolition permit has been obtained for the existing structure and will proceed in 2005.

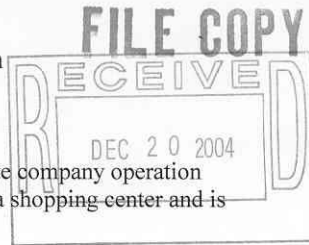
The footprint for this plan is the same footprint that was submitted in August 2004 for this location. However, at the request of P&Z, the building plan has been reduced from two-story structures to one-story structures.

Thank you for your consideration of this project.

Diana Miller
Owner/Broker
New Home Builders, LLC

Re-development Plan from Applicant: (December 20, 2004)

410 Brooks Street Redevelopment Plan



USE

The property will be used as a residential real estate office. The real estate company operation was previously located at 4841 Sweetwater Blvd in the Sweetwater Plaza shopping center and is now located in the Tower Executive Suites.

CHARACTER

The proposed structure is a one-story home indicative of the 1920 architectural style that was common in the greater Houston area. This style was selected in order to blend with the current character of the neighborhood.



Building Materials

The home will be constructed of hardi plank siding in order to maintain the style of the 1920 period. The siding product will blend with the majority of the homes on Brooks Street based on a survey of the homes that revealed the following:

38% Brick

9% Primary siding with minimal brick trim

53% Siding

BUSINESS OPERATIONS

There are currently two other real estate firms operating on Brooks Street. The business will operated 6 days per week, Tuesday through Sunday with the following hours

Tuesday through Saturday 10am to 7pm

Sunday 1pm to 5pm

The business has been in operation since 2001 and averages 2-5 clients in the office per week. The company currently has no other employees other than the principal, Diana Miller. If additional agents are hired by the business, the number allowed to work from this facility would be limited to three at any one time.

PARKING & TRAFFIC

The business does not generate a substantial amount of traffic and should have no negative impact.

Additional open parking would be located between the primary structure and the accessory building garage providing ample parking.

LOT COVERAGE

The proposed home and accessory building cover approximately 30% of the lot. There are currently

Re-development Plan from Applicant / Page 2: (December 20, 2004)

two other properties located on Brooks in the MUC that contain structures that cover a greater area than this proposal. County tax records for comparable structures are contained in the Appendix.

HEIGHT

The height of the main building and accessory building is 27'

TOTAL SQUARE FOOTAGE

The main structure is approximately 1800 square feet and the accessory building contains approximately 500 square feet of office space with an attached 1-car garage for a combined total living square footage of 2300.

There is an existing home located at 314 Brooks Street that contains 2240 square feet in the main Area and has a garage area of 1152 square feet.

FIRST CUP REQUEST:
Requested building:

410 Brooks Street

Proposed Look



FIRST FLOOR

SECOND FLOOR

FRONT ELEVATION

SQUARE FOOTAGES:

FIRST FLOOR LIVING 1795 SQ. FT.
 SECOND FLOOR LIVING 1638 SQ. FT.
 SECOND FLOOR GARAGE 617 SQ. FT.
 TOTAL LIVING 3960 SQ. FT.

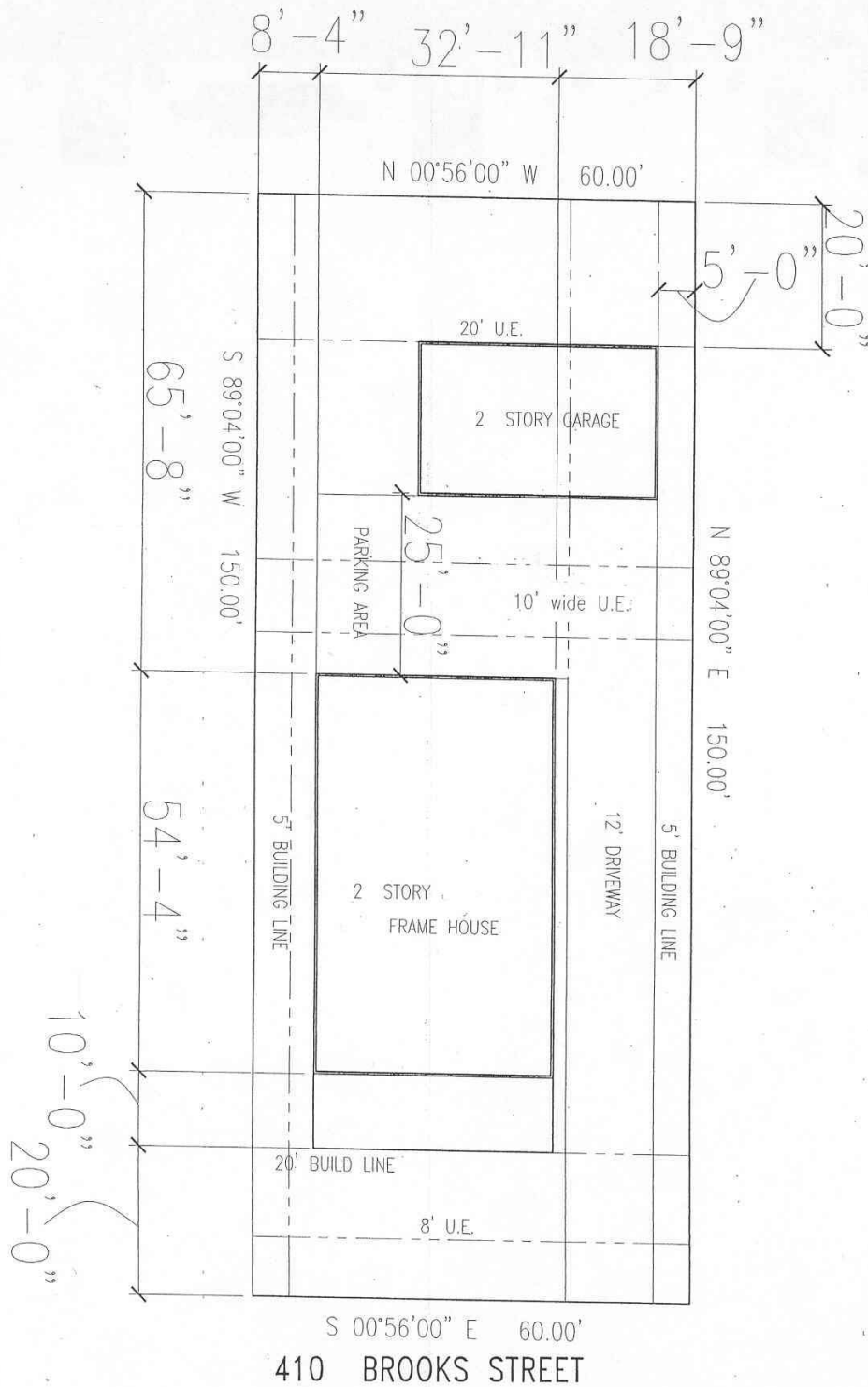
FLOOR PLAN:
 THIS IS AN ENERGY STAR PLAN
 HEALTHY HOME FILTRATION SYSTEM

NOTES:
 1. SEE ARCHITECT'S NOTES FOR DETAILS.
 2. SEE ARCHITECT'S NOTES FOR DETAILS.
 3. SEE ARCHITECT'S NOTES FOR DETAILS.

DESIGN
 HOMES IN
 THE
 FIRST FLOOR
 PLAN

Architectural drawings for a two-story house. The drawings include a second floor plan, a first floor plan, and a front elevation. The second floor plan shows a large room labeled "BEDS. ROOM" and a staircase. The first floor plan shows a large room labeled "3 CAR GARAGE" and a staircase. The front elevation shows a two-story house with a gabled roof, a front porch, and a large garage door. A photograph of the house is included, showing the exterior with a porch and a large garage door. A note next to the photograph reads: "Garage Appearance to correspond to house".

FIRST REQUEST:



Existing Structures at 410 Brooks Street: Mixed Use Conservation District

